but as trustees in bankruptcy of the Southern Car and Foundry Company, a body corporate under the laws of the State of New Jersey, and a citizen of said State, a bankrupt duly adjudicated by the district court of the United States having jurisdiction of said bankrupt and who were duly appointed such trustees by said court, and have you then and there this writ.

Witness, the Hon. Melville W. Fuller, Chief Justice of [SEAL.] the Supreme Court of the United States, this 26th day of March, in the year of our Lord one thousand nine hundred sand four.

Issued the 26th day of March, in the year of our Lord one thousand nine hundred and four.

Attest:

CHAS. J. ALLISON,
Clerk U. S. Circuit Court, Northern
District of Alabama.

8 In the Circuit Court of the United States for the Eastern Division of the Northern District of Alabama.

THOMAS G. BUSH, THOMAS A. GILLISPIE, and ORION L. HURLBUT, as Trustees in Bankruptcy of the Southern Car and Foundry Company, a Body Corporate, Organized under the Laws of the State of New Jersey and a Citizen of said State, a Bankrupt Duly Adjudicated by the District Court of the United States Having Jurisdiction of said Bankrupt, and Who Were Duly Appointed Such Trustees by said Court, Plaintiffs,

vs.

J. M. ELLIOTT, JR., Who is a Citizen of the State of Alabama, Defendant.

The said plaintiffs as trustees in bankruptcy of the Southern Car and Foundry Company, a bankrupt, as aforesaid, the said Southern Car and Foundry Company being a corporation organized and existing under the laws of New Jersey, and a citizen of said State, claims of the said defendant, a citizen of the State of Alabama, the sum of one hundred and fifty thousand ($150,000.00) dollars, for moneys paid by the said Southern Car and Foundry Company prior to the said adjudication in bankruptcy, to wit: on the 17th day of January, 1901, at his request, which sum of money, with the interest thereon, is still due and unpaid, and is the property of the said plaintiffs, as trustees, as aforesaid.

(2.) And the said plaintiffs, as trustees in bankruptcy, as aforesaid, claim of the said defendant the further sum of one hundred and fifty thousand ($150,000.00) dollars, for money, to-wit: the 17th day of January, 1901, and prior to said adjudication in bankruptcy, received by the said defendant to the use of the said Southern Car and Foundry Company, which sum of money, with the interest

thereon, is still due and unpaid, and is the property of the said plaintiffs, as trustees, as aforesaid.

(3.) And the said plaintiffs, as trustees in bankruptcy, as aforesaid, claim of the said defendant the further sum of one hundred and fifty thousand ($150,000.00) dollars, due from him on to-wit: the 17th day of January, 1901, and prior to the said adjudication in bankruptcy, by account, to the said Southern Car and Foundry Company, which sum of money, with the interest thereon, is still due and unpaid, and the property of the said plaintiffs, as trustees, as aforesaid.

9 (4.) And the said plaintiffs, as trustees, as aforesaid, claim of the said defendant, the further sum of one hundred and fifty thousand ($150,000.) dollars, for money loaned by the said Southern Car and Foundry Company to the said defendant on to-wit: the 17th day of January, 1901, and prior to the said adjudication in bankruptcy, which sum of money, with the interest thereon, is still due and unpaid, and is the property of the said plaintiffs, as trustees, as aforesaid.

(5.) And the said plaintiffs, as trustees in bankruptcy, as aforesaid, claim of the said defendant the further sum of one hundred and fifty thousand ($150,000.00) dollars, on an account stated between the said Southern Car and Foundry Company and the said defendant on to-wit: the 17th day of January, 1901, and prior to said adjudication in bankruptcy, which sum of money, with the interest thereon, is still due and unpaid, and is the property of the plaintiffs, as trustees, as aforesaid.

(6.) And the said plaintiffs, as trustees in bankruptcy, as aforesaid, claim of the said defendant the further sum of one hundred and fifty thousand ($150,000.00) dollars for merchandise, goods and chattels, sold by the said Southern Car and Foundry Company to the defendant on to-wit: the 17th day of January, 1901, and prior to the said adjudication in bankruptcy, which sum of money, with the interest thereon, is still due and unpaid, and is the property of the plaintiffs, as trustees, as aforesaid.

(7.) And the said plaintiffs, as trustees as aforesaid, claim of the said defendant the further sum of one hundred and fifty thousand ($150,000.00) dollars, for that the said defendant was on to-wit: the 17th day of January, 1901, indebted to the Chase National Bank of New York, a body corporate, in a large sum of money, to-wit: in the sum of one hundred and fifty thousand ($150,000.00) dollars, principal and interest, and while so indebted, as aforesaid, the said defendant was the president of the said Southern Car and Foundry Company, and was exercising the powers of such president, and that while such president, and while exercising the powers of such president, the said Southern Car and Foundry Company, on to-wit: the 17th day of January, 1901, and prior to the said adjudication in bankruptcy, paid off and discharged the aforesaid indebtedness of the said defendant to the said Chase National Bank of New York, principal and interest, for and on account of the said defendant,

and by and with his consent, and in paying off and discharging the aforesaid indebtedness of the said defendant,
10 the said Southern Car and Foundry Company then and there paid for the said defendant the said sum of one hundred and fifty thousand ($150,000.00) dollars, which sum of money, with interest thereon, is still due and unpaid, and is the property of the said plaintiffs, as trustees, as aforesaid.

(8.) And the said plaintiffs, as trustees, as aforesaid, claim of the said defendant the further sum of one hundred and fifty thousand ($150,000.) dollars, for that the said defendant on to-wit: the 17th day of January, 1901, was indebted to the Chase National Bank of New York, a body corporate, in a large sum of money, to-wit: in the sum of one hundred and fifty thousand ($150,000.00) dollars, and while he was so indebted, the said defendant was the president of the said Southern Car and Foundry Company, and was engaged at such time in the exercise of the powers of such president, and that while he was president of the said company, and while engaged in the exercise of the powers of such president, the said Southern Car and Foundry Company, by the procurement of the said defendant, paid off and discharged the aforesaid indebtedness so owing by the said defendant, as aforesaid, to-wit: on the 17th day of January, 1901, and prior to the said adjudication in bankruptcy, and in so paying off and discharging the said indebtedness, the said Southern Car and Foundry Company paid for the said defendant, a large sum of money, to-wit: one hundred and fifty thousand ($150,000.00) dollars, which he has never paid back to the said company, but which with the interest thereon, is still due and unpaid, and is the property of the said plaintiffs, as trustees, as aforesaid.

(8.) And the said plaintiffs, as trustees, as aforesaid, claim of the said defendant the further sum of one hundred and fifty thousand ($150,000.) dollars, for that the said defendant, on to-wit: the 17th day of January, 1901, was indebted to the Chase National Bank of New York, a body corporate, in a large sum of money, to-wit: in the sum of one hundred and fifty thousand ($150,000.00) dollars, and on said day, and while so indebted, the said defendant was president of the Southern Car and Foundry Company, and in the exercise of the powers of such president, and while so indebted, and while such president, and exercising such powers, he suffered or allowed the said Southern Car and Foundry Company to pay off and discharge the aforesaid indebtedness for him, and the said Southern Car and Foundry Company did, on to-wit: the 17th day of January, 1901,
pay off and discharge the said indebtedness for the said de-
11 fendant, and in paying off and discharging the aforesaid indebtedness, the said Southern Car and Foundry Company on to-wit: the date last aforesaid, and prior to the said adjudication in bankruptcy, paid out for the said defendant a large sum of money, to-wit: the sum of one hundred and fifty thousand ($150,000.00) dollars, which the said defendant has failed and refused to pay to the said Southern Car and Foundry Company, or to the said plain-

tiffs, as trustees, as aforesaid, but the same with interest thereon is still due and unpaid, and is the property of the said plaintiffs, as trustees, as aforesaid.

(9.) And the said plaintiffs, as trustees, as aforesaid, claim of the said defendant the further sum of one hundred and fifty thousand ($150,000.) dollars, for balance due by him to the said Southern Car and Foundry Company, for and on account of part of the capital stock of the said Southern Car and Foundry Company, which he subscribed for, or agreed to take, and which was thereafter issued to him by the said Southern Car and Foundry Company, and which he promised to pay for, but which balance, with the interest thereon, from the date when the same became due and payable, to-wit: the 17th day of May, 1899, has never been paid, and which is still due and unpaid, and the property of the plaintiffs, as trustees as aforesaid.

And the said plaintiffs aver as a part of each and every one of the foregoing counts that the said Southern Car and Foundry Company is a body corporate organized and existing under the laws of the State of New Jersey, and a citizen of said State, and was duly adjudicated a bankrupt in and by a district court of the United States, having jurisdiction to make such adjudication, and the said plaintiffs were thereafter duly appointed trustees in bankruptcy of the said Southern Car and Foundry Company, and have duly qualified as such; and that the said defendant is a citizen of the State of Alabama.

WALKER, TILLMAN, CAMPBELL AND MORROW,
WILLIAMS & LANCASTER, AND
I. H. BEAL, Attorneys for Plaintiffs.

Filed in office March 26th, 1904.
CHAS. J. ALLISON, Clerk.

Endorsed: Executed by leaving a copy of the within summons and complaint with J. M. Elliott, Jr., the defendant in the within stated cause this 28th day of March, 1904. D. N. Cooper, U. S. marshal, by H. G. Ashley, deputy.

12 Objections to Jurisdiction.

In the Circuit Court of the United States for the Eastern Division of the Northern District of Alabama.

THOS. G. BUSH, THOS. A. GILLISPIE, and ORION L. HURLBUT, as Trustees in Bankruptcy of the Southern Car and Foundry Company,

vs.

J. M. ELLIOTT, JR.

Now comes J. M. Elliott, Jr., who appears specially for the purpose of objecting to the jurisdiction of the court, and shows to the

court that the plaintiff Thos. G. Bush is and was at the time of the bringing of this suit a citizen of the State of Alabama; that defendant J. M. Elliott, Jr., is and was at the time of the bringing of this suit also a citizen of the State of Alabama, and defendant does not consent to be sued in the circuit court of the United States for the eastern division of the northern district of the State of Alabama.

And defendant says that this court has no jurisdiction of this cause.

Wherefore defendant prays that this suit may be dismissed for want of jurisdiction.

DORTCH, MARTIN & ALLEN,
GOODHUE & BLACKWOOD,
Defendant's Attorneys, Who Appear Especially for the Purpose of Objecting to the Jurisdiction of the Court.

THE STATE OF ALABAMA, }
Etowah County. }

Before me, C. E. Connor, a notary public in and for said State and county, personally appeared J. M. Elliott, Jr., who having been by me duly sworn deposes and says that the facts stated above are true.

J. M. ELLIOTT, JR.

Sworn to and subscribed before me this 28th day of April, 1904.
[SEAL.]
C. E. CONNOR,
Notary Public.

Filed May 2nd, 1904.
CHAS. J. ALLISON, Clerk.

13 In the Circuit Court of the United States for the Eastern Division of the Northern District of Alabama.

Journal Entry, November 16th, 1904, Minute Book "1," page 109.

THOS. G. BUSH ET ALS. }
vs.
J. M. ELLIOTT, JR. }

This cause coming on to be heard upon the motion to dismiss for want of jurisdiction, the said motion being duly argued at length by attorneys for the respective parties, and the court being fully informed in regard to the same, it was upon consideration adjudged by the court that the motion to dismiss for want of jurisdiction was well taken and the same was granted, it being admitted by the counsel for plaintiff that Thos. G. Bush was a citizen and resident of the State of Alabama as set out in the motion.

It was further ordered by the court that the plaintiffs at their option may withdraw all depositions and original papers now on file in the cause.

14 Bill of Exceptions.

In the Circuit Court of the United States for the Eastern Division of the Northern District of Alabama.

Be it remembered, that at the fall term, 1904, of the circuit court of the United States for the eastern division of the northern district of Alabama, begun and held at Anniston, Alabama, on the 14th day of November, 1904, the following proceedings were had in a certain cause wherein Thomas G. Bush, Thomas A. Gillispie and Orion L. Hurlbut, as trustees in bankruptcy of the Southern Car & Foundry Company, a body corporate organized under the laws of the State of New Jersey, and a citizen of said State, a bankrupt duly adjudicated by the district court of the United States having jurisdiction of said bankrupt, and who were duly appointed such trustees by said court, were plaintiffs, and J. M. Elliott, Jr., who is a citizen of the State of Alabama, was defendant.

Thereupon the defendant, J. M. Elliott, Jr., appeared in said court on May 2nd, 1904, and filed his objection to the jurisdiction of said court, and prayed that said suit be dismissed, the said motion and petition being in words and figures as set out in a writing hereto attached, marked Exhibit D, and made a part hereof.

Thereupon, on November 16th, 1904, said court sustained the objection of said defendant, J. M. Elliott, to the jurisdiction of said court, and dismissed said suit out of said court for want of jurisdiction, said judgment entered by said court in said cause being in words and figures as set out in a writing hereto attached, marked Exhibit E, and made a part hereof.

Thereupon, upon the entry of said judgment, the plaintiffs duly and separately excepted to the action of said court in sustaining the objection of defendant to the jurisdiction of said court, and in dismissing said suit out of said court.

And this, the plaintiff's bill of exceptions to the action of said court not otherwise appearing of record, they now tender and pray that the same may be signed and made a part of the record of said cause, which is accordingly done, in term time, this 21st day of November, 1904.

HARRY T. TOULMIN,
Judge of said Court.

15 EXHIBIT "D."

In the Circuit Court of the United States for the Eastern Division of the Northern District of Alabama.

THOS. G. BUSH, THOS. A. GILLISPIE, and ORION L. HURLBUT, as Trustees in Bankruptcy of the Southern Car and Foundry Company,

vs.

J. M. ELLIOTT, JR.

Now comes J. M. Elliott, Jr., who appears especially for the purpose of objecting to the jurisdiction of the court, and shows to the court that the plaintiff, Thos. G. Bush is and was at the time of the bringing of this suit, a citizen of the State of Alabama; that defendant J. M. Elliott, Jr., is and was at the time of the bringing of this suit also a citizen of the State of Alabama, and the defendant does not consent to be sued in the circuit court of the United States for the eastern division of the northern district of the State of Alabama.

And defendant says that this court has no jurisdiction of this cause. Wherefore defendant prays that this suit may be dismissed for want of jurisdiction.

(Signed) DORTCH, MARTIN & ALLEN,
GOODHEU & BLACKWOOD,
Defendant's Attorneys, Who Appear Specially for the Purpose of Objecting to the Jurisdiction of the Court.

STATE OF ALABAMA,
Etowah County.

Before me, C. E. Conner, a notary public in and for said State and county, personally appeared J. M. Elliott, Jr., who having been by me duly sworn deposes and says that the facts stated above are true.

(Signed) J. M. ELLIOTT, JR.

Sworn — and subscribed before me this the 28th day of April, 1904.

C. E. CONNER,
Notary Public.

16 EXHIBIT "E."

THOS. G. BUSH ET ALS.
vs.
J. M. ELLIOTT, JR.

This cause coming on to be heard upon the motion to dismiss for want of jurisdiction, the said motion having been duly argued at length by attorneys for the respective parties, and the court being

fully informed in regard to the same, it was upon consideration adjudged by the court that the motion to dismiss for want of jurisdiction was well taken and the same was granted, it being admitted by the counsel for plaintiff that Thos. G. Bush was a citizen and resident of the State of Alabama as set out in the motion.

It was further ordered by the court that the plaintiffs at their option may withdraw all depositions and original papers now on file in the cause.

Wednesday, November 16th, 1904.

Endorsed: Filed January 13th, 1905. Chas. J. Allison, clerk.

17 Petition for Writ of Error.

In the Circuit Court of the United States for the Eastern Division of the Northern District of Alabama.

THOS. G. BUSH, THOS. A. GILLISPIE, ORION L. HURLBUT, as Trustees in Bankruptcy of the Southern Car & Foundry Co., a Bankrupt, Pl'ffs,

vs.

J. M. ELLIOTT, JR., Def't.

To the honorable the judges of said court:

Thomas G. Bush, Thomas A. Gillispie and Orion L. Hurlbut as trustees in bankruptcy, as aforesaid, plaintiffs in the above entitled cause now come, and respectfully show and state unto your honors that on or about the 6th day of November, 1904, this court entered judgment herein, in favor of the defendant herein, against the plaintiffs solely upon the question of jurisdiction, raised by the said defendant by his motion to dismiss this cause for want of jurisdiction, as will more fully appear from the record; and that in and by said judgment, this court held that it was without jurisdiction to hear and determine said cause, and upon that ground and that ground alone, this court sustained the defendant's said motion, and dismissed said cause, as will also appear from the record.

And these plaintiffs further say that in said judgment and the proceedings had prior thereunto in this cause, certainerrors were committed to the prejudice of these plaintiffs, all of which will more in detail appear from the assignment of errors filed with, and made a part of this petition.

Wherefore, these plaintiffs pray that a writ of error may issue in this behalf, to the Supreme Court of the United States, for the correction of errors so complained of; that the said question of jurisdiction may be duly certified by this court, to the said Supreme Court; that a transcript of the record, proceedings and papers in this cause pertaining to said question of jurisdiction, that is to say, the summons and complaint, the said motion to dismiss for want of jurisdiction, the bill of exceptions filed in said cause by the plain-

tiffs, and the judgment rendered therein duly authenticated, may be sent to the said Supreme Court.

JOHN P. TILLMAN,
JOHN B. KNOX,
Att'ys for said Plaintiffs.

18 In the Circuit Court of the United States for the Eastern Division of the Northern District of Alabama.

THOS. G. BUSH, THOS. A. GILLISPIE, and ORION L. HURLBUT, as Trustees in Bankruptcy of the Southern Car & Foundry Co., Bankrupt, Pl'ffs,

vs.

J. M. ELLIOTT, JR., Def't.

The said plaintiffs in the above entitled cause, in connection with their petition for a writ of error, filed herewith, and herewith presented, and hereto attached, do make and file the following assignments of error, which they aver occurred upon the trial of said cause:

(1.) For that the said circuit court erred in sustaining defendant's motion filed in said cause to dismiss the said cause for want of jurisdiction, and in dismissing said cause.

(2.) For that the said circuit court erred in dismissing said cause upon motion made by defendant for want of jurisdiction.

(3.) For that the said circuit court erred in holding that it was without jurisdiction to hear and determine said cause, and in dismissing said cause out of said court for want of jurisdiction.

(4.) For that the said circuit court erred in the final judgment rendered by it, dismissing said cause.

JOHN P. TILLMAN,
JOHN B. KNOX,
Att'ys for said Plaintiffs.

Endorsed: Filed March 3rd, 1905. Chas. J. Allison, clerk.

19 Decree Allowing Writ of Error.

In the Circuit Court of the United States for the Eastern Division of the Northern District of Alabama.

THOS. G. BUSH, THOS. A. GILLISPIE, and ORION L. HURLBUT, as Trustees in Bankruptcy of the Southern Car & Foundry Company, a Bankrupt, Pl'ff,

vs.

J. M. ELLIOTT, JR., Def't.

This, the 3rd day of March, 1905, came the plaintiffs in the above entitled cause, and filed herein, and presented to the court their

petition, praying for the allowance of a writ of error intended to be urged by them, and praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, as stated in said petition, duly authenticated, may be sent to the Supreme Court of the United States, and that such other and further proceedings may be had, as may be proper in the premises.

Upon consideration whereof, the court does, on this day, being in term time, and of the term in which said judgment was rendered, allow the writ of error as prayed for, upon the plaintiffs giving bond, according to law, in the sum of five hundred dollars.

And the court hereby certifies to the Supreme Court of the United States, that the judgment of the said circuit court complained of was a judgment dismissing said cause upon the sole ground that the said court was without jurisdiction to hear and determine the same; and that the only question presented to and decided by the said circuit court in said cause was whether said court had jurisdiction to hear and determine said cause; and this question was decided against the plaintiffs, and by reason thereof, the said cause was dismissed out of the said court.

March 3rd, 1905.

HARRY T. TOULMIN, Judge, etc.

Filed March 4th, 1905.
CHAS. J. ALLISON, Clerk.

20 Certificate to the Supreme Court.

In the Circuit Court of the United States for the Eastern Division of the Northern District of Alabama.

THOS. G. BUSH, THOS. A. GILLISPIE, ORION L. HURLBUT, as Trustees in Bankruptcy of the Southern Car & Foundry Company, Bankrupt, Pl'ff-,

vs.

J. M. ELLIOTT, JR., Def't.

A writ of error to the Supreme Court of the United States having been heretofore at this term of the court allowed to the plaintiffs to review the judgment of this court rendered in said cause, at this term, and is said writ of error mentioned, dismissing said cause for want of jurisdiction, but no certificate having been made by this court of the precise question upon which said cause was dismissed; now, upon motion of the said plaintiffs, the court hereby certifies to the Supreme Court of the United States the following as the questions involved in said judgment, and decided against the said plaintiffs, to-wit:—The Southern Car & Foundry Company, the bankrupt, being a corporation organized and existing, now and at the time of the institution of said suit, under the laws of the State of New Jersey, and a citizen of said State, and the citizenship of the said defendant,

and of the plaintiffs, trustees, being then as now, as follows, that of the defendant, and of the said Thomas G. Bush in the State of Alabama, and that of the said Thos. A. Gillispie in the State of New Jersey, and that of the said Orion L. Hurlbut in the State of Tennessee; and the said suit being in assumpsit for the recovery of a debt or demand alleged in the complaint to have been due and owing to the said bankrupt by the said defendant at the date of the bankruptcy; has this court jurisdiction of said cause, under the bankruptcy act as amended, and especially, under section 23, sub-division A, and sub-division B of said act, as the same has been amended.

This question this court has decided in the negative, and, thereupon, dismissed said cause upon the motion of defendant, as shown by the record.

21 Done this 11th day of March, A. D. 1905, in term time, and of the said term of this court at which said judgment was rendered, the same not yet having been adjourned, and not having expired by operation of law.

HARRY T. TOULMIN, Judge.

Filed March 17th, 1905.
CHAS. J. ALLISON, Clerk.

22 UNITED STATES OF AMERICA:

The President of the United States to the honorable judges of the circuit court of the United States for the eastern division of the northern district of the State of Alabama, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said circuit court, before you, or some one of you, between Thomas G. Bush, Thomas A. Gillispie and Orion L. Hurlbut, as trustees in bankruptcy of the Southern Car and Foundry Company, a bankrupt, as plaintiffs, and J. M. Elliott, Jr., as defendant, a manifest error hath happened, to the great damage of the said Thomas G. Bush, Thomas A. Gillispie and Orion L. Hurlbut, as trustees in bankruptcy, as aforesaid, as by their complaint appears. We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, in the District of Columbia, on the 28" day of April next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness, the Honorable Melville W. Fuller, Chief Justice of the

Supreme Court of the United States, the 29th day of March, in the year of our Lord one thousand nine hundred and five.

[Seal Circuit Court U. S., Nor. Dist. Ala.]

CHAS. J. ALLISON,
Clerk of the said Circuit Court.

Allowed by
HARRY T. TOULMIN, Judge.

22½ [Endorsed:] 11. Thomas G. Bush *et als.* as trustees *vs.* J. M. Elliott Jr. Writ of error Filed April 3rd 1905 Chas. J. Allison, clerk.

Served on the defendant by filing a copy of this writ of error in this office, on this 3rd day of April, 1905.

CHAS. J. ALLISON, Clerk.

23 Bond.

Know all men by these presents, that we, Thomas G. Bush, Thomas A. Gillispie, and Orion L. Hurlbut, as trustees in bankruptcy of the Southern Car and Foundry Company, a bankrupt, as principals, and The United States Fidelity & Guaranty Co. of Baltimore, Maryland, as surety, are held and firmly bound unto J. M. Elliorr, Jr., in the full and just sum of five hundred dollars, to be paid to the said J. M. Elliott, Jr., his certain attorneys, executors, administrators, jointly and severally by these presents.

Sealed with our seals, and dated this the 27th day of March, in the year of our Lord one thousand nine hundred and five.

Whereas, lately at a regular term of the circuit court of the United States, for the eastern division of the northern district of Alabama, in a suit pending in said court between Thomas G. Bush, Thomas A. Gillispie and Orion L. Hurlaut, as trustees in bankruptcy of the Southern Car and Foundry Company, a bankrupt, as plaintiffs, and J. M. Elliott, Jr., as defendant, a judgment was rendered against the said plaintiffs, and the said plaintiffs having obtained a writ of error and filed a copy thereof in the clerk's office of said court to reverse the judgment in the aforesaid suit, and a citation directed to the said J. M. Elliott, Jr., citing and admonishing him to be and appear at the Supreme Court of the United States, to be holden at Washington, in the District of Columbia, within thirty days from the date thereof.

Now, the condition of the above obligation is such, that if the said Thomas G. Bush, Thomas A. Gillispie and Orion L. Hurlbut, as trustees in bankruptcy of the Southern Car and Foundry Company, a bankrupt, shall prosecute said writ of error to effect, and answer all damages and costs if they fail to make their plea good, then the

above obligation to be void; otherwise to remain in full force and virtue.

(Signed) THOS. G. BUSH, as Trustee. [SEAL.]
THOS. A. GILLISPIE, as Trustee, [SEAL.]
By T. G. BUSH
ORION L. HURLBUT, as Trustee, [SEAL.]
By T. G. BUSH.
THE UNITED STATES FIDELITY AND GUARANTY COMPANY,
By LOUIS V. CLARK, Agent, and [SEAL.]
By H. M. ARCHIBALD, Agent. [SEAL.]

Approved by
HARRY T. TOULMIN, Judge.

Filed April 3, 1905.
CHAS. J. ALLISON, Clerk.

21 UNITED STATES OF AMERICA:

The President of the United States to J. M. Elliott, Jr., Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States to be holden at Washington, in the District of Columbia, on the 28th day of April next, pursuant to a writ of error, filed in the clerk's office of the circuit court of the United States for the eastern division of the northern district of Alabama, in a certain cause therein pending, wherein Thomas G. Bush, Thomas A. Gillispie and Orion L. Hurlbut, as trustees in bankruptcy of the Southern Car and Foundry Company, a bankrupt, are plaintiffs in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States this 29th day of March, in the year of our Lord one thousand nine hundred and five.

[Seal Circuit Court U. S., Nor. Dist. Ala.]

CHAS. J. ALLISON,
Clerk U. S. Courts.

21½ [Endorsed:] 11. 181–1895 Thomas G. Bush *et als.* as trustees *vs.* J. M. Elliott, Jr. Original citation. Northern district Alabama. Received Apr. 3 1905 office of U. S. marshal. Executed the within citation by handing Amos E. Goodhue a copy this 3 day of April 1905 W. A. Greene deputy U. S. marshal. Amos E. Goodhue is one of the attorneys of record W. A. Greene dep. marshal. Returned and filed April 4, 1905. Chas. J. Allison clerk.

25 Certificate.

UNITED STATES OF AMERICA, }
Northern District of Alabama. }

I, Chas. J. Allison, clerk of the circuit court of the United States, in and for the eastern division of the northern district of Alabama, hereby certify that the foregoing pages, numbered from one to twenty-four, is a full, true and correct transcript of the record in a case pending in this court, wherein Thos. G. Bush, *et als.*, are plaintiss, and J. M. Elliott, Jr., is defendant, as fully as the same appears of record and on file in my office.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this the 19th day of April, in the year of our Lord one thousand nine hundred and five.

Seal Circuit Court U. S., Nor. Dist. Ala.

CHAS. J. ALLISON,
Clerk U. S. Circuit Court, Northern District of Alabama.

Endorsed on cover: File No. 19,733. N. Alabama C. C. U. S. Term No. 245. Thomas G. Bush, Thomas A. Gillispie, and Orion L. Hurlbut, as trustees in bankruptcy of the Southern Car and Foundry Company, a bankrupt, plaintiffs in error, *vs.* J. M. Elliott, Jr. Filed April 27th, 1905. File No. 19,733.